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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,855	08/03/2001	Oliver O. Stanchfield	TPP 31390	6671

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EXAMINER

TRAN A, PHI DIEU N

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/920,855	STANCHFIELD, OLIVER C.
	Examiner Phi D A	Art Unit 3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 10 December 2002.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-34 is/are pending in the application.

4a) Of the above claim(s) 4,16-26,29 and 31 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-3,5-15,27,28,30 and 32-34 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> .	6) <input type="checkbox"/> Other: _____

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1. Applicant's election with traverse of figure 1 claims 1-3, 5-15, 27-30, 32-34 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that if the search of one specie would overlap the search of another specie, it would not result in serious burden on the examiner. This is not found persuasive because the species are quite distinct, and the search of all the species would present a serious burden to the examiner.

Also, claim 29 appears to belong to a non-elected specie 5 and thus will not be considered for examination.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 4, 16-26, 29, 31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected specie, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

**Claims 1-34 are pending. Claims 4, 16-26, 29, 31 are withdrawn from further consideration.**

*Specification*

3. The disclosure is objected to because of the following informalities: specification page 2 third paragraph line 1 " may a generally " is improper English.

Appropriate correction is required.

*Claim Objections*

4. Claims 13 and 34 are objected to because of the following informalities:

Claim 13 “glue is applied to the pad immediately between ...installed condition” is improper. This is an article claim, not a method claim; thus the method step is improperly claimed.

Claim 34 “comprising the pad” is confusing. Should it be “compressing the pad”? Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, 5, 7-8, 10, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Strasser (5433048).

Strasser (figures 2, 4) shows a molding having a longitudinal axis (along the length) and comprising a core (the body of the molding) and a surface formed of a thermosetting resin (col 2 line 22) and a décor sheet (surface 5), a generally planar floating floor engage surface (figure 4, the surface where the curve pad extending from), the pad being resilient, a wall engaging surface (6, figure 4), apertures (where screws 14 goes into, figure 4) in the wall engaging surface to allow a connector to pass therethrough, the connector fastening the molding to the corner when the molding is in the installed position, an intermediate surface (the surface on left of aperture surface) connecting the wall-engaging surface and the floating floor engaging surface, a face (opposite on 11, figure 4) on the molding and positioned to face outwardly from the corner, the

face is curved, the molding having a generally uniform cross section at planes transverse to the longitudinal axis, a hollow (the bottom hole, figure 4) formed in the pad.

7. Claims 1-2, 9-11, 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Pelosi jr. et al (5553431).

Pelosi jr. et al (figure 6) shows a molding for positioning along a corner formed by an intersection of wall and a floating floor, the molding having a longitudinal axis, and comprising a core and a surface formed of a thermosetting resin (flexible extruded vinyl) and a décor sheet (surface 18, figure 2), a generally planar floating floor engaging surface (14, inner surface), a resilient pad (36, figure 6, col 4 line 31) positioned along the floating floor engaging surface, an adhesive positioned on the pad and configured to engage the floating floor when the molding is in the installed position ( col 4 lines 35-36), the pad being positioned distal a front edge(the tip 14) of the floating floor engaging surface, wherein the front edge of the floating floor engaging surface being distal the corner, the molding having a generally uniform cross section at planes transverse to the longitudinal axis, the pad being made of a resilient foam material made from one of a closed-cell or open-cell (col 4 lines 31), glue/adhesive being a preformed layer cover with a film ( paper) applied to the molding (col 4 lines 36-37), a floating floor (30).

8. Claims 1, 3, 5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by DeGraan (4655009).

DeGraan (figure 2) shows a molding having a core and a surface formed of a thermosetting resin (elastomer strip, col 1 line 38), a décor sheet ( 11), a generally planar floating floor engaging surface ( 22, figure 3, the ends being identical thus the following reference numbers would apply to either end), a pad (19) positioned along the floating floor engaging

surface, the pad being resilient ( col 2 line 40), apertures (the holes created by fasteners 26) in the wall engaging surface (32, 25, 12, figure 3) to allow a connector to pass therethrough, an intermediate surface (underside of 11, figure 2) connecting the wall engaging surface and the floating floor engaging surface, the intermediate surface being angled so that the wall, floating floor, intermediate surface form a generally triangular shape in a plane transverse to the longitudinal axis, a curve face (11) on the molding positioned to face outwardly from the corner, the pad (19) being positioned distal a front edge of the floating floor engaging surface (32), wherein the front edge of the floating floor engaging surface being distal the corner, the molding having a generally uniform cross section at planes transverse to the longitudinal axis.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 27-28, 30, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pelosi Jr. et al (5553431).

Pelosi Jr. et al shows all the claimed limitations. The claimed method steps of preventing moisture from seeping into a gap between a floating floor and a molding would have been the obvious method steps of preventing moisture from seeping into a gap in Pelosi Jr. et al's structure.

11. Claims 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pelosi Jr. et al.

Pelosi Jr. et al shows all the claimed limitation except for a silicone sealant at the ends of the molding.

Pelosi Jr. et al discloses the need for protecting the corner when the floor is washed with water.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Pelosi Jr et al to show silicone sealant at the ends of the molding because it would prevent water and moisture from seeping into the corner.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different moldings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Phi Dieu Tran A *PA*  
February 22, 2003

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

*Lanna Mai*